

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

CIVIL ACTION FILE NO. 5:22-cv-390-D

CAROLYN CALAFIORE,

Plaintiff,

vs.

SCHINDLER ELEVATOR CORPORATION,
previously known as SCHINDLER HAUGHTON
ELEVATOR CORPORATION

Defendant.

NOTICE OF REMOVAL

TO: Ms. Carolyn Calafiore
c/o, Billy Strickland, II, attorney of record,
Strickland Agner Pittman
112 North William Street
Goldsboro, North Carolina 27530

Defendant Schindler Elevator Corporation ("Defendant Schindler") hereby removes the action commenced by Plaintiff Carolyn Calafiore ("Plaintiff") from the General Court of Justice, Superior Court Division, Wayne County, North Carolina, to the United States District Court for the Eastern District of North Carolina, Western Division.

A civil action was commenced by Plaintiff on or about June 24, 2022, and served upon Defendant Schindler Elevator Corporation on July 5, 2022. Plaintiff subsequently filed an Amended Complaint adding Defendant Wayne Memorial Hospital, Inc. on July 29, 2022, and serving Defendant Schindler on July 29, 2022, which amendment defeated removal jurisdiction before the deadline for removal of the original action. On September 7, 2022, Plaintiff voluntarily dismissed Defendant Wayne Memorial Hospital, Inc.

This matter is now pending in the General Court of Justice, Superior Court Division, Wayne County, North Carolina, designated as Case No. 22-CVS-958. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders from the state court file are attached hereto as **Exhibits A-G**.

1. This Notice of Removal is being filed within thirty days of the receipt of the Notice of Dismissal of Defendant Wayne Memorial Hospital, Inc., which has allowed this matter to become removable, as permitted by 28 U.S.C. § 1446(B)(3). Defendants hereby reserve any and all rights to assert the insufficiency of process or insufficiency of service of process as defenses to Plaintiff's Complaint.

2. No further proceedings have been had in the General Court of Justice, Superior Court Division, Wayne County as of the date of the filing of this removal.

3. This Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1332(a) in that the parties to this action are citizens of different states and the amount in controversy, exclusive of interest and costs, exceeds the sum of \$75,000.00.

4. There is complete diversity in this case as of the date of this notice.

5. According to the Amended Complaint, Plaintiff Carolyn Calafiore is a resident of Wayne County, North Carolina.

6. Defendant Schindler Elevator Corporation is a foreign corporation organized and existing under the laws of the State of Delaware with its principal place of business in Morristown, New Jersey.

7. Plaintiff has alleged a severe knee injury and has undergone surgery, incurring substantial medical expenses therefor, and Plaintiff has alleged that she has suffered severe,

permanent and painful bodily injuries, that she will continue to endure future pain and suffering in the body and mind, and incur medical expenses in the future.

8. Upon information and belief, Plaintiff has alleged that she has sustained damages “in an amount to be determined at trial, but in any case, in excess of \$25,000.00” only because of the pleading constraints of N.C. Gen. Stat. 1A-1, Rule 8(a)(2) that prohibit stating a claim in excess of such amount in negligence cases. Therefore, the amount of damages in controversy is greater than \$75,000.00 exclusive of interest and costs.

9. Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446 removal of the above-captioned state court action is appropriate.

10. Promptly after filing this Notice of Removal, Defendants will serve upon the Plaintiff and file with the Clerk of Superior Court of Wayne County, as required by law, a “Notice of Filing of Notice of Removal” (without exhibits) in the form attached as **Exhibit H**.

11. Venue is proper in this court pursuant to 28 U.S.C. § 1441(a) in that this district and division embrace the place where the action is pending.

WHEREFORE, Defendant prays that this action be removed to this Court for further proceedings as though this action had originally been instituted in this Court.

This the 27th day of September, 2022.

YOUNG MOORE AND HENDERSON, P.A.

BY: /s/ Walter E. Brock, Jr.
WALTER E. BROCK, JR.
N.C. State Bar No. 8195
3101 Glenwood Avenue, Suite 200
Raleigh, North Carolina 27612
Telephone (919)782-6860
Facsimile (919) 782-6753
Email: walter.brock@youngmoorelaw.com
Attorney for Defendant Schindler Elevator Corporation

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that he electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, and served the foregoing document upon the attorneys shown below via email and by depositing a copy of same in the United States mail, postage prepaid, addressed to said attorneys.

This the 27th day of September, 2022.

YOUNG MOORE AND HENDERSON, P.A.

BY: /s/ Walter E. Brock, Jr.
WALTER E. BROCK, JR.
N.C. State Bar No. 8195
3101 Glenwood Avenue, Suite 200
Raleigh, North Carolina 27612
Telephone (919)782-6860
Facsimile (919) 782-6753
Email: walter.brock@youngmoorelaw.com
Attorneys for Defendant Schindler Elevator Corporation

Served on:

Billy Strickland, II
Strickland Agner Pittman
112 North William Street
Goldsboro, North Carolina 27530
Billy@stricklandlawnc.com
Attorney for Plaintiff

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